

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of : Customer Number: 20277
Sergey N. RAZUMOV : Confirmation Number: 4460
Application No.: 10/762,375 : Tech Center Art Unit: 3625
Filed: January 23, 2004 : Examiner: A. A. Shah
For: MULTIMEDIA TERMINAL FOR PRODUCT ORDERING

REPLY BRIEF

Mail Stop Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Reply Brief is submitted in response to the Examiner's Answer mailed on January 30, 2008.

Claims 29-43 are pending. These claims are rejected under 35 U.S.C. 102(e) as being anticipated by Sturr, Jr. (2004/0143512).

Independent claim 29 recites a system for enabling a customer to order a required product, comprising:

a voice recognition mechanism for recognizing voice commands from the customer, and
style="padding-left: 40px;"/>a display mechanism responsive to the recognized voice commands for displaying images assisting the customer in ordering the product during a product ordering session,
style="padding-left: 40px;"/>the display mechanism being configured for displaying a first screen representing a first phase of the product ordering session and a second screen representing a second phase of the product ordering session, and

the voice recognition mechanism being configured to establish a first set of voice commands recognizable when the first screen is displayed, and a second set of voice commands recognizable when the second screen is displayed.

Sturr discloses a kiosk for ordering items in a fast food system. The kiosk is provided with kiosk user interfaces 20 (FIG. 15) for enabling customers to place an order. The reference indicates that “[k]iosk user interfaces 20 are usually offered with touch screens 28 for the customer to enter information by touching a monitor screen, however, other means for entering information may also be used including keyboards, touch panels, pen input devices, joysticks, mice, microphones and voice recognition and response systems and other suitable means of making a selection that can be recognized by a computer.” (paragraph 0025).

The Examiner considers the commands “back to burger combination,” “no cheese,” “burger,” etc. in FIG. 4 of Sturr, and “back to combination,” “orange,” “iced tea,” etc. shown in FIG. 5 to respectively correspond to the claimed first and second sets of voice commands.

It is noted that FIGS. 3 and 5 shows commands **displayed on the touch screens**. Moreover, the screens shown in FIGS. 4 and 5 of Sturr indicate “Please touch your Choice.”

Accordingly, the commands in FIGS. 4 and 5 are graphic objects displayed on a touch screen rather than voice commands, as the claim requires. Moreover, Sturr discloses that “in operation, a customer enters an order via a touch screen...” (the first sentence of paragraph 0027). In the description of FIGS. 4 and 5, the reference discloses that the user selects choices.

In the Appeal Brief, Appellant presented arguments demonstrating that Sturr neither expressly nor inherently discloses the voice recognition mechanism configured to establish a first set of voice commands recognizable when the first screen (representing a first phase of the product ordering

session) is displayed, and a second set of voice commands recognizable when the second screen (representing a second phase of the product ordering session) is displayed, as claim 29 requires.

The Reply Brief states that “[i]n response to applicant’s argument that inherency is not shown (A.B. pages 7-9), the Examiner has not relied on inherency. There is no speculation of voice recognition – the reference clearly states the invention can use voice recognition” (page 5).

Anticipation, under 35 U.S.C. § 102, requires that each element of a claim in issue be found, either expressly described or under principles of inherency, in a single prior art reference. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1983); *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1920 (Fed. Cir. 1989) *cert. denied*, 110 S.Ct. 154 (1989).

As the Examiner did not rely on inherency, she took the position that Sturr **expressly** discloses the voice recognition mechanism configured in the manner recited in claim 29.

It is noted that the words “voice recognition” are found only in one sentence of Sturr - “**Kiosk user interfaces 20 are usually offered with touch screens 28 for the customer to enter information by touching a monitor screen, however, other means for entering information may also be used including keyboards, touch panels, pen input devices, joysticks, mice, microphones and voice recognition and response systems and other suitable means of making a selection that can be recognized by a computer.**” (paragraph 0028, underlining is added for the convenience of the Board of Patent Appeals and Interferences).

Moreover, the Examiner relies upon only this sentence.

It is noted that in accordance with Black’s Law Dictionary, the word “expressly” is defined as “in an express manner; in direct or unmistakable terms; explicitly; definitely; directly. *St. Louis Union Trust Co. v. Hill*, 336 Mo. 17, 76 S.W.2d 685, 689. The opposite of impliedly. *Bolles v. Toledo Trust Co.*, 144 Ohio St. 195, 58 N.E.2d 381, 396.”

Considering the reference, Sturr expressly discloses that microphones and voice recognition and response systems may be used for entering information. However, the reference does not expressly disclose that the voice recognition system of Sturr uses the voice recognition mechanism configured to establish a first set of voice commands recognizable when the first screen (representing a first phase of the product ordering session) is displayed, and a second set of voice commands recognizable when the second screen (representing a second phase of the product ordering session) is displayed, as claim 29 requires.

Moreover, the reference does not expressly disclose that the touch screen commands displayed on the screens shown in FIGS. 4 and 5 (considered by the Examiner to respectively correspond to the claimed first and second sets of voice commands) are voice commands, or even that these commands may be voice commands.

Hence, Sturr does not expressly disclose the subject matter of claim 29.

As discussed in the Apply Brief, the voice recognition mechanism configured in the claimed manner is not inherently present in the reference because one skilled in the art would realize that the voice recognition system of Sturr does not need to be configured in the claimed manner to provide entering information (Sturr discloses only that the voice recognition system may be used for entering information).

Inasmuch as various configuration (different from the claimed configuration) may be used for entering information, it cannot be said that voice recognition system of Sturr is necessarily configured in the claimed manner.

Hence, Sturr neither expressly nor inherently discloses the subject matter of independent claim 29.

Independent claim 36 recites *inter alia* the voice recognition mechanism configured to establish a first set of voice commands recognizable during a first phase of the product ordering session, and a second set of voice commands recognizable during a second phase of the product ordering session, and the display mechanism configured for **displaying a first set of images representing the first set of voice commands during the first phase** of the product ordering session, and for **displaying a second set of images representing the second set of voice commands during the second phase** of the product ordering session.

Independent claim 40 recites similar steps.

As discussed above, Sturr expressly discloses displaying first and second sets of images (touch screen commands in FIGS. 4 and 5). However, he does not expressly disclose that these sets of images represent respective sets of voice commands, as the claims 36 and 40 require.

Moreover, as one skilled in the art would recognize, the display mechanism of Sturr does not need to be configured for displaying images representing respective voice commands in order to enable the voice recognition system of Sturr to provide entering information. Therefore, the display mechanism of Sturr is not necessarily configured in the manner required by claims 36 and 40. Hence, Sturr does not inherently disclose the claimed display mechanism.

It is noted that the reference does not even expressly disclose that the voice recognition system of Sturr is used together with the touch screen display mechanism. The reference discloses only that “other means for entering information may also be used including ... microphones and voice recognition and response systems....” This phrase may be interpreted as a suggestion to use a microphone and a voice recognition system instead of the touch screen disclosed in the application.

Moreover, as discussed above, Sturr neither expressly nor inherently discloses that its voice recognition system is configured to establish a first set of voice commands recognizable during a first

phase of the product ordering session, and a second set of voice commands recognizable during a second phase of the product ordering session, as claims 36 and 40 require.

Hence, Sturr neither expressly nor inherently discloses the subject matter of independent claims 36 and 40.

Further, as discussed in the Appeal Brief, the reference neither expressly nor inherently discloses the subject matter of dependent claims 30-35, 37-39 and 41-43.

For all of the foregoing reason, Appellant respectfully submits that the grounds of rejection of the claims on appeal are in error and should be reversed.

Respectfully submitted,

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